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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ATLANTA, GA 30309-3915		

EXAMINER	
VENCJ, DAVID J	

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
07/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,226

Applicant(s)

FRANTZEN, FRANK

Examiner

David J. Venci

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 2, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112 – first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter not described in the specification in a way so as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claim 1 is directed to a detection method of detecting "p-aminobenzoic acid" or "p-aminobenzoyl glutamic acid" without performing chromatography.

Applicants are not in possession of their claimed invention because Applicants' specification describes methods requiring chromatography (see e.g., Example 2, "C18 solid phase extraction cartridge"; see also, Example 4, "molecular sieve"; see also, Example 6, "molecular sieve").

In addition, Applicants' specification provides no evidence of either isolating or detecting the claimed "p-aminobenzoic acid" or "p-aminobenzoyl glutamic acid" because Applicants' specification provides no experimental data (e.g., TLC, NMR, MS, HPLC, etc.) tending to support the existence of either compound.

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Finally, according to Weber, 278 METHODS ENZYMOL. 1 (1997), solvent composition affects optical detection. Applicants' claimed invention performed in the presence of sample (see e.g., Example 1, "whole blood") with no chromatography does not appear to take this notion into consideration because Applicants' specification provides no experimental data (e.g., TLC, NMR, MS, HPLC, etc.) tending to support the notion that Applicants' successfully controlled for solvent effects, for example "whole blood" effects.

Claim Rejections - 35 USC § 112 – second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the claim preamble does not correspond to the method outcome. Specifically, whether/how merely detecting "p-aminobenzoic acid" or "p-aminobenzoyl glutamic acid" amounts to a method for assaying "folate" is not clear. One or more steps of assaying "folate" appear omitted from the claim.

In claim 1, where a "diazo derivative" comes from is not clear.

In claim 1, the phrase "derivative combination" is indefinite because the identity of one or more objects required for a "derivative combination" is not clear.

In claim 17, the objects referenced by the abbreviations "PABA", "PABA-glu", "PDBA" and "PDBA-glu" lack antecedent basis.

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In claim 17, element ii), whether a "PABA" binding partner requires one, two or more distinct objects is not clear.

In claim 17, element ii), whether a "PABA-glu" binding partner requires one, two or more distinct objects is not clear.

In claim 17, element ii), whether a "PDBA" binding partner requires one, two or more distinct objects is not clear.

In claim 17, element ii), whether a "PDBA-glu" binding partner requires one, two or more distinct objects is not clear.

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Conclusion


No claims are allowable at this time.

Any inquiry concerning this communication should be directed to David J. Venci whose telephone number is 571-272-2879. The examiner can normally be reached on 08:00 - 16:30 (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David J Venci
Assistant Examiner
Art Unit 1641

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